

Waivers	First Name	Last Name	Claim Number
			W-14-0008
Amount	OGC Received Date	Assigned To	Assigned Date
\$329.65	07/24/2014	Francis Bonds	07/24/2014
EPA Decision	EPA Decision Date	Amount Approved	Status
	08/20/2014	\$329.65	CLOSED
Appeal	Comments		
No			

This email is in response to your "Waiver/Remission of Indebtedness Application" dated May 6, 2014, wherein you request approval of a waiver for a gross amount of \$329.65. For the reasons set forth herein, your request for waiver is approved.

Briefly stated, the record shows that for pay periods ending December 4, 2010 through January 25, 2014, you were overpaid salary in a gross amount of \$329.65. Due to an administrative error, the Agency continued to pay you as if your duty station was Washington, D.C. In 2010, your duty location was Washington, D.C., but upon your reassignment in November 2010, your duty station changed to [REDACTED]. The overpayment was the direct result of locality pay differences for [REDACTED] and Washington, D.C.

In your request for waiver, you indicate that on April 28, 2014, your servicing human resources office, Human Resources Management Division Las Vegas notified you of the error. By letter dated April 23, 2014, the Defense Finance and Accounting Service (DFAS) sent you a letter "superseding" earlier debt letters and notified you of the resultant salary overpayment. However, you contend that you had no knowledge of the error in the salary you received prior to these notifications. You are requesting a waiver based on the fact the overpayments were caused by administrative error and because you were not at fault in this matter.

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments of pay or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. Waiver is precluded if the employee is aware or should have been aware that he/she was being overpaid. B-271308, April 18, 1996. In the present case, I find that the erroneous payments were caused by Agency administrative error. Therefore, the only issue before me is whether you have established a sufficient basis for me to conclude that repayment of the debts caused by the erroneous payments should be waived.

In this instance, I find that the erroneous payments occurred due to an Agency administrative error. Therefore, the only issue is whether you knew or should have suspected a pay error based upon information contained in your biweekly Civilian Leave and Earnings Statements (LESs) and Notification of Personnel Action Standard Form 50 (SF-50s). Generally, if an employee has records which if reviewed would indicate an overpayment and the employee fails to review these documents for accuracy then the employee is not without fault and waiver will be denied. B-226465, March 23, 1988. The application of this general rule depends on the circumstances and must be determined on a case-by-case basis.

In determining whether an employee's actions are reasonable with regard to an overpayment I may examine such matters as the employee's position, knowledge, experience and length of service. B-222383, October 10, 1986. At the time the erroneous payments began, you had been employed with the federal government for approximately 8 years. It is my view that your experience under the general schedule pay system would have caused a reasonable person to carefully scrutinize all documents pertaining to pay especially at the time of your reassignment. Nonetheless, my review of the record indicates that you reasonably could not have known that you were being overpaid.

The Office of Personnel Management (OPM) issues standard pay charts showing an employee's pay rates based upon specified geographic areas. These charts inform federal employees of their proper pay. The salary rate shown in block 12 of your SF-50 prior to the time of your reassignment in 2010 was \$95,641.* In this regard, OPM's 2010 pay chart indicated the pay rate for the [REDACTED]. The annual pay rate for Washington, D.C. in 2010 was \$94,969. This salary amount (\$94,969) is for a GS 13 Step 3, which is the salary reflected in block 20 of the SF-50 effecting your reassignment. As a result, and as reflected in the record, you were paid at the D.C. locality pay rate for the entire period of the debt. In addition, you received your biweekly LESs which reflected your salary before and after you were reassigned. The LESs continued to show a basic pay rate of \$94,969 through the pay period ending Nov. 5, 2011. Subsequently, the LESs showed a salary for the Washington D.C. locality pay area as your salary increased from a salary for a GS 13 Step 3 to a salary for a GS 13 Step 6. Each time your Step changed, the accompanying SF-50 showed a salary for the Washington D.C. locality pay area. However, the annual salary difference between the locality pay area for [REDACTED] and Washington, D.C. was approximately \$100 for the year or \$4 per pay period. The locality pay percentage was 24.22% for D.C. and 24.09% for [REDACTED].

If an employee's salary appears reasonable on its face, there is no reason to expect or require an employee to audit the amount shown on her LESs. B-219133, January 22, 1986. In this case, the small salary difference for each pay period of \$4 and \$100 for the entire year leads me to conclude that you did not know or have reason to know you were being overpaid. This is the case even though the SF-50s over the course of the debt period did reflect the salary for Washington D.C., as did the LESs for the locality percentage. However, I do not believe these factors could have, under the circumstances, alerted you to a payment error. The pay periods' and annual pay differences were so small that a reasonable person would not have "looked behind" the amount of pay she received.

By copy of this email, the Interior Business Center is instructed to make any corrective pay action which may be necessary including refunding any amount paid on this debt. If you have any questions, please feel free to contact me at 202-564-5434.

* The 2010 OPM Pay Chart for Washington, D.C. does not show a salary rate of \$95,641.

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Type
Locality Pay

Attachments